IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1370 OF 2006

Union of India ...Appellant

Vs.

Smt.Nirmala Sanjay Tayade & Anr. ...Respondents

Mr.A.N.Samant for the Appellant
Mr.G.J.Mohan Rao for the Respondents.

CORAM: A.S.OKA, J.
DATED: AUGUST 4, 2006.

P.C.:

1. Heard Shri Samant for the Appellant and Shri Rao for the Respondents. The challenge in this Appeal is to the Judgment and Order dated 6th February 2006 passed by the Railway Claims Tribunal, Mumbai. The compensation has been awarded by the Tribunal under section 124-A of the Railways Act, 1989 on account of untoward incident.

2. Shri Samant for the Appellant submitted that there is material on record to show that the death was caused as the deceased passenger Sanjay Sambhaji Tayade was knocked down by a pole. He submitted that therefore the case will be governed by Clause (b) of the proviso to section 124-A of the said Act of 1989. He, therefore, submitted that the Appellant was not liable to pay compensation under section 124-A of the said Act of 1989.

3. The perusal of the Judgment of the Tribunal shows that in the Claim Application it is stated that the deceased was travelling in second class compartment in a local train holding a ticket from Bhandup to Dadar. The deceased accidently fell down from the train and as a result of the injuries sustained died subsequently. The Tribunal placed reliance on the evidence of one Udayban Kachru Tayade, a neighbour of the deceased. The said witness deposed in his evidence that he along with deceased left house on 6th December 2000 for participating in a function at Dadar. At Bhandup station he purchased two tickets and gave one ticket to the deceased before boarding the train. The Tribunal accepted the case made out by the Applicants of accidental fall from the train of the deceased.

4. Perusal of the written statement shows that a specific contention is not raised that the deceased died as a result of self inflicted injury which is covered by Clause (b) of proviso to Section 124-A of the said Act. In the written statement a vague contention is raised that the alleged incident is not an untoward incident and the deceased was not holding a valid ticket. So far as this contention is concerned, the Tribunal has accepted the evidence of witness Udayban who deposed that he along with deceased purchased second class return tickets from Bhandup to Dadar.

5. Another submission was made by Shri Samant for the Appellant regarding grant of interest by the Tribunal. The learned Counsel for the Respondents states that he is not pressing for interest and the Respondents will not execute that part of the order by which interest is awarded. Statement made by the learned Counsel for the Respondents is accepted.

6. In view of this position, it is difficult to find fault with the impugned Judgment and Award. After having accepted that the deceased died in an untoward incident, the compensation of Rs.4,00,000/- has been granted to the Applicants in accordance with the Railway Accidents and Untoward Incidents (Compensation) Rules, 1990. No fault can be found with the impugned Judgment and Order. Appeal is dismissed with no order as to costs.

Judge.